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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,143

09/30/2003

Young-Woo Lee

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

08/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/673,143	Applicant(s) LEE ET AL.	
	Examiner Aristotelis M. Psitos	Art Unit 2627	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-8, 15-21, 27-33 and 38-44.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☒ Other: The finality of the previous OA is maintained.

/Aristotelis M Psitos/
Primary Examiner, Art Unit 2627

Item 13 above - Applicants' request for reconsideration of the finality of the previous OA has been considered; however, the examiner maintains the finality - see MPEP 706.07. Applicant's arguments with respect to the rejections have been considered and a position with respect to the claims and the art as applied has been joined.

With respect to applicants' request focusing upon the alternate foreign references in the previous OA, the examiner has cited the US equivalent documents as English equivalence/s of the foreign documents. Since the US equivalent document/s are part of the family of the foreign document(s), the examiner does not see the need for obtaining another English translation of the foreign documents relied upon. The rejections are considered clear.

Item 11 continued: Applicants' arguments have been considered but are not deemed persuasive to overcome the rejections as stated in the previous OA. Applicants' arguments focus upon the examiner's lack of evidence for the motivation/reasoning behind combining the teachings from the secondary reference to Hwang with either Ogihara (US Patent 6868051), or with Watanabe (US 6493304). The proper question with respect to 103 rejections does not limit itself with substitution of one set of hardware/elements with another. The focus is upon whether the claimed invention can/is "obvious" to one of ordinary skill in the art taking the teachings of the reference/s. The examiner maintains the previous positions. The examiner apologises to applicants' representative if his articulation fails to convince applicants. Nevertheless, the ability of evaluating a signal as presented in Ogihara where the evaluation first determines if one signal is greater than/or not of another signal and then indicating what type of disc has been discriminated still requires an identification of what the signal/s themselves are. What type of disc is represented by LV1 or LV2? The secondary reference to Hwang makes a decision without the intermediate step of detecting which signal is greater than another, but rather a comparison to set value/s. Such alternative protocols are considered equivalent because both require a comparison of signals and a correspondence of such an evaluated result with established parameters associated with different disc types leading to the same outcome, an identification of the disc type. The examiner is not physically substituting circuitry of one reference for another. With respect to the Watanabe reference, the examiner concludes that reading col. 23 line 1 to col. 24 line 31 -noting in particular RFENV - for distinguishing disc type and the above noted teaching from Hwang would still meet the claimed invention, i.e., obvious to one of ordinary skill in the art.